

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 7

May 23, 2014

SUBJECT: LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT
VICTIMS OF HUMAN TRAFFICKING AND OTHER SERIOUS CRIMES
AGAINST PERSONS - REVISED

PURPOSE: In November 2008, Special Order No. 42, delineated specific criteria law enforcement should use in order to determine a victim's eligibility for a Law Enforcement Agency (LEA) U-visa certification. It also stated that the determination for the certification was only available while the case was being investigated and prosecuted. Since that time, the United States Citizenship and Immigration Services (USCIS) provided further clarification regarding the role and responsibilities of law enforcement officials.

The purpose of the LEA certification is to identify whether the applicant was a victim of one of the qualifying crimes; the applicant had information relevant to the crime and the applicant was helpful to law enforcement. Helpfulness can be defined as assisting with all reasonable requests from law enforcement and not impeding with the furtherance of the investigation. Additionally, the T-visa and U-visa have been separated within the Department Manual and the related sections, adjusted accordingly.

The Victims of Trafficking and Violence Protection Act (VTVPA) requires that the immigrant victim has suffered substantial physical or mental abuse; however, USCIS will make the determination as to whether the victim has met the "substantial physical or mental" standard on a case-by-case basis during its adjudication of the U-visa petition. Additionally, certifying law enforcement agencies do not make this determination.

BACKGROUND: The T-visa provides immigration protection to victims of severe forms of human trafficking who comply with reasonable requests for assistance from law enforcement in the investigation or prosecution of human trafficking cases. The T-visa allows victims to remain in the United States to assist in the investigation or prosecution of human traffickers. Unlike the U-visa, the T-visa does not require a law enforcement certification.

The U-visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime or who are likely to be helpful in the investigation or prosecution of criminal activity. The U-visa is a temporary visa and only 10,000 are granted nationwide by

Congress per fiscal year. The USCIS has sole authority as to who is granted the temporary U-visa.

PROCEDURE:

- I. **LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING AND OTHER SERIOUS CRIMES AGAINST PERSONS - REVISED AND RENAMED.** Department Manual Section 4/264.70, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking and Other Serious Crimes Against Persons*, has been revised and renamed, *Law Enforcement Agency Endorsement for Immigrant Victims of Human Trafficking (T-Visa)*.
 - II. **LAW ENFORCEMENT AGENCY ENDORSEMENT - DEFINED - REVISED AND RENAMED.** Department Manual Section 4/264.72, *Law Enforcement Agency Endorsement - Defined*, has been revised and renamed, *Law Enforcement Agency Certification for Immigrant Victims of Serious Crimes Against Persons (U-Visa)*.
 - III. **INVESTIGATING OFFICER'S RESPONSIBILITIES - DELETED.** Department Manual Section 4/264.74, *Investigating Officer's Responsibilities*, has been deleted. The content of this section has been included as a subsection of Department Manual Section 4/264.72.
 - IV. **AREA DETECTIVE COMMANDING OFFICER'S, OR SPECIALIZED DIVISION COMMANDING OFFICER'S RESPONSIBILITIES - DELETED.** Department Manual Section 4/264.76, *Area Detective Commanding Officer's or Specialized Division Commanding Officer's Responsibilities*, has been deleted. The content of this section has been included as a subsection of Department Manual Section 4/264.72.
- Attached are the revised Manual sections with revisions indicated in italics.
- V. **DEPARTMENT OF HOMELAND SECURITY, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, FORM I-918, SUPPLEMENT B (I-918B), U NONIMMIGRANT STATUS CERTIFICATION - CLARIFIED.**

- A. **Use of Form.** The use of this form remains the same.
- B. **Completion.** *The Department must complete the Form I-918B, as directed by the Department of Homeland Security, I-918B instructions.*

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Additionally, the following directions clarify the information for completing Part 2:

Note: Designated Certifier. All Law Enforcement Agency certifications must only be signed by those of detective supervisory rank whose signature is on the U-visa Certifying Official Information Form authorized by the Chief of Police and on file with USCIS.

All original U-visa Certifying Official Information Forms must be returned to Detective Bureau for processing. Areas or Specialized Investigative Divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., must notify the Department Domestic Violence Coordinator, Detective Bureau, of such changes and provide a replacement. A new U-visa Certifying Official Information Form will need to be completed when there is a personnel change.

- * The Los Angeles Police Department should be listed as the "Certifying Agency"; and,
- * The Chief of Police should be listed as the "Head of Certifying Agency."

Note: If the review of an initiated Form I-918B determines that the victim does not qualify for a U-visa certification, no documentation will be made on the Form I-918B. The form must only be completed if a certification is to be provided.

The completion of the remainder of this form remains the same.

- C. **Distribution.** The distribution of this form remains the same.

FORM AVAILABILITY: Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victims of Trafficking in Persons, can be accessed via direct link at, <http://www.uscis.gov/files/form/i-914supb.pdf>. Form I-918, Supplement B, U Nonimmigrant Status Certification, can be accessed via direct link at, <http://www.uscis.gov/files/form/i-918supb.pdf>.

The following forms and resources can be obtained by contacting the Department U-visa Coordinator within Detective Bureau:

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- Training Bulletin - Human Trafficking, Vol. XLII, Issue 3, September 2012;
- Denial Letter;
- Withdrawal/Disavowing Letter; and,
- Law Enforcement Resource Guide.

AMENDMENTS: This Order amends Sections 4/264.70 and 4/264.72; and deletes Sections 4/264.74 and 4/264.76 of the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Internal Audits and Inspections Division, will review this directive and determine whether an audit or inspection will be conducted in accordance with Department Manual Section 0/080.30.

A handwritten signature in black ink, appearing to be 'CB' with a stylized flourish at the end.

CHARLIE BECK
Chief of Police

Attachments

DISTRIBUTION "D"

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4/264.70 LAW ENFORCEMENT AGENCY ENDORSEMENT FOR IMMIGRANT VICTIMS OF HUMAN TRAFFICKING (T-VISA). The Department *is responsible for completing* a Law Enforcement Agency (LEA) endorsement **upon request of the immigrant victim**, providing the immigrant victim meets the qualifications as delineated in this section.

T-visa defined. The T Nonimmigrant status visa (also known as the T-visa) provides immigration protection to victims of severe forms of human trafficking who assist law enforcement in the investigation or prosecution of human trafficking cases. A law enforcement declaration is evidence of a victim's cooperation and it may be submitted in support of a T-visa application.

T-visa Qualifications. Immigrant victims of human trafficking and the immigrant victim's family members may be eligible to apply for a T-visa. A LEA endorsement *must* be provided to the immigrant victim of human trafficking upon request, if the victim meets the qualifications. This will be based upon the investigating officer's (I/O) knowledge of the case, and any additional evidence developed. *The I/O must determine* that the applicant is present in the United States as a result of being a victim of a severe form of trafficking in persons; and, determine if the applicant has complied with reasonable requests throughout the investigation.

Note: The endorsement must be completed on the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS), Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons.

The LEA endorsement is prepared by Robbery-Homicide Division (RHD), Robbery Special Section (RSS), when the crime of labor trafficking and human smuggling has occurred and been investigated by their investigators. The LEA endorsement is prepared by Detective Support and Vice Division (DSVD) when the crime of human trafficking as related to commercial sexual exploitation has occurred and been investigated by their investigators. Robbery-Homicide Division and DSVD are both part of the Los Angeles Metro Task Force on Human Trafficking. Both entities will complete the endorsement for an immigrant victim seeking a T-visa within 15 business days of the first encounter with the victim [California Penal Code Section 236.5 (a)].

Investigating Officer's Responsibilities. The I/O must verify that the immigrant victim meets the qualifications for a T-visa LEA endorsement. Investigating officers *must* follow the I-914, Supplement B, federal form instructions. The I/O *must* ensure the following when issuing the LEA endorsement:

- The I-914, Supplemental B, federal form is completed and their respective Officer-in-Charge (OIC) or commanding officer (CO) has signed the endorsement. All completed LEA endorsements for T-visas must be forwarded to the CO, RHD, or DSVD dependent upon the issuing entity for endorsement and signature;
- The I-914, Supplement B, for the T-visa application must be provided within 15 business days of the determination that the immigrant victim meets the necessary qualifications;

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- Attempt to verify the immigrant victim's identity when providing the LEA endorsement, either by government-issued identification (e.g., passport) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);
- Ensure all information related to the LEA endorsement *is updated in the Detective Case Tracking System (DCTS) or maintained in the case file; and,*
- Review the information contained in the federal form and supporting documentation.

LEA Endorsement - Denial Procedures. *If the CO of DSVD or RHD determines that a LEA endorsement will not be provided, the I/O must:*

- *Update the DCTS indicating that a LEA endorsement was denied; and,*
- *Provide the victim with a denial letter on Department letterhead within 15 business days and place a copy in the secure file maintained by RHD.*

LEA Endorsement - Victim Appeal Procedure. *The victim may submit additional evidence to the law enforcement agency, which the investigating officer and supervisor must reconsider and respond to the denial of the LEA certification within one week of the receipt of additional evidence [236.5 (c) PC]. The CO of either RHD or DSVD, whichever is applicable, has been designated as the final level of appeal and must make the final decision regarding the issuance or denial of the T-visa endorsement.*

Note: *All updated information must be maintained in a T-visa request file and updated in DCTS. In cases where DCTS tracking is unavailable, all information must be maintained in a secure file and maintained in the case package.*

Robbery-Homicide Division and Detective Support and Vice Division Commanding Officer's Responsibilities.

- *Track LEA endorsement requests;*
- *Review the information contained in the federal form and supporting documentation;*
- *Have final authority for the authorization or denial of T-visas; and,*
- *All LEA endorsements completed by both DSVD and RHD, RSS for T-visa must be forwarded to the CO, RHD, where they must be maintained in a secure file.*

Detective Bureau Commanding Officer's Responsibilities.

- *The CO, Detective Bureau, will designate a coordinator to track the number and outcome of all T-visa requests Department-wide.*

264.72 LAW ENFORCEMENT AGENCY CERTIFICATION FOR IMMIGRANT VICTIMS OF SERIOUS CRIMES AGAINST PERSONS (U-VISA). *The Department is responsible for completing a LEA certification upon request of the immigrant victim, providing the immigrant victim meets the qualifications as delineated in this section.*

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U-visa defined. *The U Nonimmigrant status visa (also known as the U-visa) provides immigration protection for victims of qualifying crimes who have been helpful, are being helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the criminal activity. A LEA certification is one piece of a larger application that a victim must submit for U-visa consideration to the United States Citizenship and Immigration Services (USCIS).*

The Victims of Trafficking and Violence Protection Act requires that the immigrant victim has suffered substantial physical or mental abuse; however, the USCIS will make the determination as to whether the victim has met the “substantial physical or mental” standard on a case-by-case basis during its adjudication of the U-visa petition. In addition, the U-visa certification is not granted based on whether or not criminal charges have been filed or a conviction obtained.

Qualifications that the victim must meet are as follows:

- *Must be a victim of qualifying criminal activity (refer to list of crimes on Form I-918 Supplement B, U Nonimmigrant Status Certification, Part 3. Criminal Acts);*
- *Must possess information relevant to the crime;*
- *The victim was helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime(s). (Helpfulness can be defined as assisting with all reasonable requests from law enforcement and not impeding the furtherance of the investigation.);*
- *The victim has provided information and assistance reasonably requested by law enforcement; and,*
- *The crime(s) must have violated United States law and have occurred within the City of Los Angeles.*

Additionally, certain immediate family members and indirect victims of U-visa recipients may also be eligible to live and work in the United States as derivative U-visa recipients based on their relationship with the principal recipient.

These family members include:

- *Unmarried children under the age of 21 of principal U-visa recipients;*
- *Spouses of principal U-visa recipients;*
- *Parents of principal U-visa recipients under age 21; and,*
- *Unmarried siblings under the age of 18 of principal U-visa recipients under age 21.*

Indirect Victims include:

- *A parent of a child victim under 21 years of age;*
- *Parent of a victim that is incapacitated or incompetent to cooperate with the investigation; and,*
- *Parent of a deceased child due to murder or manslaughter.*

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Exceptional Handling:

- *In the event that the victim has multiple qualifying criminal cases, the Area should accept the request for certification regardless of other pending cases;*
- *Cases where there is no investigative follow up by Area/Specialized Division Detectives (i.e., Direct File cases), the victim's level of cooperation should be assessed based on their cooperation during the preliminary investigation;*
- *U-visa certification requests can be prioritized based on time sensitive issues, needing to meet a deadline for USCIS; and,*
- *In order to qualify as an indirect victim, they must have information regarding the crime, must be helpful to law enforcement and the crime must have violated one of the qualifying crimes. (See Form I-918, Supplement B, U Nonimmigrant Status Certification.)*

Area Detective Commanding Officer or Specialized Investigative Division Commanding Officer's Responsibilities. *The Area detective CO or the specialized investigative division CO is the U-visa Coordinator for his or her command and must:*

- *Assign a specific detective supervisor, as well as a back-up person to coordinate the processing of the LEA certification requests;*
- *Ensure that a specific detective is assigned the certification request. If the victim meets the qualifications for certification, sign and date the LEA certification (the signature should be signed in a color of ink other than black for verification purposes);*

Note: *All LEA certifications must only be signed by those of detective supervisory rank whose signature is on the U-visa Certifying Official Information Form authorized by the Chief of Police and on file with USCIS. All original U-visa Certifying Official Information Forms must be returned to Detective Bureau for processing. Areas or Specialized Investigative Divisions that experience a change in certifying officials due to retirement, permanent deployment changes, etc., must notify the Department Domestic Violence Coordinator, Detective Bureau, of such changes and provide a replacement. A new U-visa Certifying Official Information Form will need to be completed when there is a personnel change.*

- *Ensure that an appropriate response is provided to the victim or their legal representative within 30 days after the request was received;*
- *Ensure that each LEA certification request is updated within the Detective Case Tracking System (DCTS) along with the determination to certify or deny the request;*
- *Maintain a tracking system with the number of requests received and the determinations made; and,*
- *Make the final decision regarding the issuance or denial of the U-visa certification, as the final level of appeal.*

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Investigating Officer's Responsibilities. The investigating officer assigned to research the LEA certification request must verify that the immigrant victim meets the qualifications for a U-visa, LEA certification (refer to U-visa qualifications); and,

- *Attempt to verify the immigrant victim's identity when providing the LEA certification, either by government-issued identification (e.g., passport) or by personal knowledge of the victim (e.g., prior in-person interview, courtroom testimony, photographic evidence);*
- *Follow the federal form instructions when completing the LEA certification;*
- *Ensure the Form I-918, Supplement B, U Nonimmigrant Status Certification form is completed with the exception of the Signature of Certifying Official;*
- *Return the LEA certification to the U-visa coordinator within the 30-day timeline;*
- *Ensure all information related to the LEA certification is updated in DCTS; and,*

Note: A reasonable extension may be granted by the U-visa coordinator for certification requests requiring additional research.

- *Ensure a copy of the LEA certification and all additional information is maintained within the detective case package.*

LEA Certification Denial Procedures: If the Area detective CO or the specialized investigative division CO determines that a LEA certification will not be provided, the assigned I/O must:

- *Document the finding(s) and reason(s) for denial in DCTS;*
- *Complete a denial letter on Department letterhead signed by the Area detective division CO or the specialized investigative division CO; and,*
- *Provide a copy to the victim or their legal representative.*

Appeal Procedure. In the event that the certification is denied and the victim would like to appeal the denial, the case must be reviewed by the Area detective CO or the specialized investigative division CO. The Area detective CO or the specialized investigative division CO, whichever is applicable, will be the final level of appeal and must make the final decision regarding the issuance or denial of the U-visa certification.

Disavowing/Withdrawing of LEA Certification. A certifying agency may disavow or withdraw their certification if the victim stops cooperating. To do so, the I/O must notify the USCIS – Vermont Service Center in writing on Department letterhead, which should include:

- *The name and date of birth of the individual;*
- *The name of the individual who originally signed the LEA certification and date it was signed;*
- *The reason why the LEA certification is being disavowed/withdrawn describing how the victim had refused to cooperate with reasonable requests made by the I/O;*
- *The signature and title of the individual who is disavowing/withdrawing the certification; and,*

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- *A copy of the previously signed certification, if there is one on file.*

Bureau Commanding Officer's Responsibilities.

- *The CO from each bureau must have oversight on the effectiveness of their Areas.*

Detective Bureau Commanding Officer's Responsibilities.

- *The Detective Bureau Commanding Officer will designate a coordinator to track the number and outcome of all U-visa requests Department-wide.*